IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE ELEVENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

**HON'BLE SRI JUSTICE C.V.RAMULU**

**WRIT PETITION NO : 32909 of 1998**

Between:

Smt. I.V. Rajeshwari,
W/o Sri G.V.S. Subramanyam,
Aged 46 years, Occ: Teacher in
Srinivasa High School, New Bakaram,
Hyderabad.

**..... PETITIONER**

AND

1. The Secretary to Government,
Department of Education,
Government of A.P., Secretariat,
Hyderabad.

2. The Director of School Education,
Government of A.P., Hyderabad.

3. The Regional Joint Director,
School Education, Hyderabad.

4. The District Educational Officer,
Hyderabad District, Hyderabad.

5. The Correspondent, Srinivasa High School,
Bakaram, Hyderabad - 500380

**.....RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or orer or direction, more in the nature of writ of Mandamus declaring the action of the respondents in not giving the retrospective absorption of aided post with effect from 1.6.1981, in view of the G.O.Ms.No.25/Q.Edn.(F) Department, dated 9.3.1982 and subsequent letter of the respondent No.5 dated 8.7.1998 as illegal, arbitrary, unust and violative of Article 14 and 16 of the Constitution of India, besides being violative of the provisions of the A.P. Education Act and Rules, while issuing a consequential direction to the respondents to give the petitioner the benefit of retrospective absorption into the aided post with effect from 1.6.1981, in view of the G.O.Ms.No.250/Q.Edn (F) Department dated 9.3.1982 with all attendant and consequential benefits including notional fixation of pay and release of arrears.

**Counsel for the Petitioner : MR.D.GOVARDHANACHARY**
**Counsel for the Respondent Nos. 1 to 4: GP FOR SCHOOL EDUCATION**
**Counsel for the respondent No.5: Mr.J.Prabhakar Rao (Not Present ).**

**The Court made the following :**

## ORAL ORDER:

1. This writ petition is filed seeking a writ of Mandamus to declare the action of the respondents in not giving the retrospective absorption against aided post to the petitioner with effect from 01.06.1981 in view of G.O.Ms. No.250/Q.Edn.(F) Department, dated 09.03.1982 and the subsequent letter of respondent No.5 dated 08.07.1998 as arbitrary, illegal and violative of Articles 14 and 16 of the Constitution of India and also contrary to the provisions of A.P. Education Act and Rules, with consequential direction to the respondents to give the benefit with retrospective effect as to her absorption in aided post.

2. The facts are not in dispute. The petitioner was appointed as Telugu Pandit against un-aided vacancy in 5th respondent – School with effect from 14.06.1980. While so, 11 posts of S.G.B.T. Teachers were admitted to grant-in-aid vide G.O.Ms.No.250/Q.Edn.(F) Department, dated 09.03.1982 including one post of Telugu Pandit. Admittedly the petitioner was not eligible for being appointed as Telugu Pandit since a senior to the petitioner was accommodated in the aided vacancy and so far as considering her case to S.G.B.T. post, she was admittedly not qualified to hold such a post. Therefore, her case was not considered. The only grievance of the petitioner is that there were many juniors to the petitioner, who were also not qualified, but they were all absorbed against 11 aided vacancies. Therefore, the respondents ought to have considered the case of the petitioner for absorption against any one among 11 posts of S.G.B.T. Teachers. Such an argument of the learned counsel asking this court to perpetuate illegality cannot be accepted even assuming that the juniors, who are not qualified, were also appointed and absorbed against 11 S.G.B.T. Teachers, which were sanctioned vide G.O.Ms.No.250/Q.Edn.(F) Department, dated 09.03.1982. It seems that the petitioner also made a detailed representation to the respondents on 11.11.1986 requesting to give her S.G.B.T. post and the same was not considered by respondent No.4. However, thereafter the petitioner was appointed, in her turn, as S.G.B.T. Teacher with effect from 26.04.1994.

3. A detailed counter-affidavit has been filed on behalf of respondents 1 to 4. In para 11 of the counter, it is stated that the Correspondent has submitted a proposal to absorb the eligible teachers in the vacant post as per the seniority on 01.10.1992 when one Smt. Geeta resigned and the Department has absorbed/converted the petitioner

in S.G.B.T., vide proceedings of the District Educational Officer dated 26.04.1994 and unaided service with effect from 01.06.1981 was not taken into consideration as she never possessed required qualification as on 01.06.1981. She completed her B.Ed., degree only in March, 1985. The unaided service was counted for her pay fixation, etc. But she is not entitled for being appointed to the post of S.G.B.T., as on 09.03.1982. Therefore, she cannot compare herself with others.

4 . Heard learned counsel for the petitioner as also learned Government Pleader for School Education.

5 . Learned counsel for the petitioner submits that many juniors to the petitioner were absorbed as S.G.B.T., Teachers though not qualified. Unfortunately names are not given as to who are the persons who were not qualified and how they were not qualified for being posted nor they are made party to this writ petition. The appointments were made way back in the year 1982, whereas this writ petition was filed in the year 1998. Therefore, the question of discriminatory attitude adopted by 5$^{th}$ respondent – School or other respondents cannot be gone into at this stage. Further, admittedly, the petitioner was not qualified to hold the post of S.G.B.T., since she was not holding B.Ed., degree as on the date of absorption of 11 S.G.B.T., Teachers as per G.O.Ms.No.250, dated 09.03.1982. Therefore, the petitioner's grievance is unfounded and the writ petition is devoid of merits and is liable to be rejected.

6. Learned counsel for the petitioner, however, submits that the petitioner is intending to take voluntary retirement and at least the services rendered by her in unaided vacancy, taking which her pay was fixed, may be taken into consideration for the purpose of pensionary benefits. Such a request cannot be accepted and cannot be gone into in this writ petition. So far as this aspect is concerned, it is needless to observe that if such a representation is made by the petitioner to the competent authority, the competent authority shall consider the same and dispose it of in accordance with law within a period of two months from the date of receipt of such representation.

7. With the observation as above, writ petition is disposed of. No costs.

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**C.V. RAMULU. J.,**

**Dated: 11.11.2004.**

**VRK.**

**Note:**

**Furnish cc in two weeks.**

To

1. The Secretary to Government,
   Department of Education,
   Government of A.P., Secretariat,
   Hyderabad.

2. The Director of School Education,

Government of A.P., Hyderabad.

3. The Regional Joint Director,

School Education, Hyderabad.

4. The District Educational Officer,

Hyderabad District, Hyderabad.

5. The Correspondent, Srinivasa High School,

Bakaram, Hyderabad – 500 380.

6. Two CCs to G.P. for School Education, High Court Buildings, Hyderabad (OUT).

7. Two CD copies.